

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 GILLIAN E. FRIEDMAN, State Bar No. 169207
Deputy Attorney General
4 California Department of Justice
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2564
6 Facsimile: (213) 897-2804

7 Attorneys for Complainant

COPY

FILED

MAR 07 2008

Board of Vocational Nursing
and Psychiatric Technicians

8 **BEFORE THE**
9 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

12 JONATHAN ALBERT ARMSTRONG
14149 De Sota Drive
13 Victorville, California 92392

14 Vocational Nurse License No. VN 209700

15 Respondent.

Case No. VN 2005-52

FIRST AMENDED ACCUSATION

17 Complainant alleges:

18 PARTIES

19 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this
20 Accusation solely in her official capacity as the Executive Officer of the Board of Vocational
21 Nursing and Psychiatric Technicians, Department of Consumer Affairs (Board).

22 2. On or about June 15, 2004, the Board issued Vocational Nurse License
23 No. VN 209700 to Jonathan Albert Armstrong (Respondent). The Vocational Nurse License
24 was in full force and effect at all times relevant to the charges brought herein and will expire on
25 January 31, 2008, unless renewed.

26 JURISDICTION

27 3. This Accusation is brought before the Board, under the authority of the
28

1 following laws. All section references are to the Business and Professions Code unless
2 otherwise indicated.

3 4. Section 2875 provides, in pertinent part, that the Board may discipline the
4 holder of a vocational nurse license for any reason provided in Article 3 (commencing with
5 section 2875) of the Vocational Nursing Practice Act.

6 5. Section 118, subdivision (b), provides, in pertinent part, that the expiration
7 of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during
8 the period within which the license may be renewed, restored, reissued or reinstated. Under
9 Section 2892.1, the Board may renew an expired license at any time within four years after the
10 expiration.

11 6. Section 2878 states in pertinent part:

12 "The Board may suspend or revoke a license issued under this chapter [the
13 Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)) for any of the following:

14 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

15 (1) Incompetence, or gross negligence in carrying out usual nursing functions."

16

17 (f) Conviction of a crime substantially related to the qualifications, functions, and
18 duties of a licensed vocational nurse, in which event the record of the conviction shall be
19 conclusive evidence of the conviction.

20 7. California Code of Regulations, title 16, section 2518.6, states in pertinent
21 parts:

22

23 "(b) A licensed vocational nurse shall adhere to standards of the profession and
24 shall incorporate ethical and behavioral standards of professional practice which include but are
25 not limited to the following:"

26

27 "(3) Maintaining professional boundaries with the patient/client; and

28

1 “(c) A violation of this section constitutes unprofessional conduct for purposes of
2 initiating disciplinary action.”

3 8. Section 490 of the Code states:

4 “A board may suspend or revoke a license on the ground that the licensee has
5 been convicted of a crime, if the crime is substantially related to the qualifications, functions, or
6 duties of the business or profession for which the license was issued. A conviction within the
7 meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo
8 contendere. Any action which a board is permitted to take following the establishment of a
9 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
10 been affirmed on appeal, or when an order granting probation is made suspending the imposition
11 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
12 Penal Code.”

13 9. California Code of Regulations, title 16, section 1444, states:

14 “A conviction or act shall be considered to be substantially related to the
15 qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the
16 present or potential unfitness of a registered nurse to practice in a manner consistent with the
17 public health, safety, or welfare.

18 10. California Code of Regulations, title 16, section 2520, states:

19 “As set forth in Section 2878 of the Code, gross negligence is deemed
20 unprofessional conduct and is a ground for disciplinary action. As used in Section 2878 “gross
21 negligence” means a substantial departure from the standard of care which, under similar
22 circumstances, would have ordinarily been exercised by a competent licensed vocational nurse,
23 and which has or could have resulted in harm to the consumer. An exercise of so slight a degree
24 of care as to justify the belief that there was a conscious disregard or indifference for the health,
25 safety, or welfare of the consumer shall be considered a substantial departure from the above
26 standard of care.”

27 11. California Code of Regulations, title 16, section 2520, states:

28 “As set forth in Section 2878 of the Code, incompetence is deemed

1 unprofessional conduct and is a ground for disciplinary action. As used in Section 2878
2 'incompetence' means the lack of possession of and the failure to exercise that degree of learning,
3 skill, care and experience ordinarily possessed and exercised by responsible licensed vocational
4 nurses."

5 12. Section 125.3 provides, in pertinent part, that the Board may request the
6 administrative law judge to direct a licensee found to have committed a violation or violations
7 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
8 enforcement of the case.

9 FIRST CAUSE FOR DISCIPLINE

10 (Gross Negligence and/or Incompetence)

11 13. Respondent is subject to disciplinary action under sections 2878(a) and
12 2878(a)(1) of the Code as defined by sections 2519 and 2520 of the California Code of
13 Regulations in that Respondent failed to establish and maintain boundaries with a patient whom
14 he met while he was employed as a licensed vocational nurse at Sierra Vista Rehabilitation
15 Center, a skilled nursing facility in San Bernardino County, California (Sierra Vista). The
16 circumstances are as follows:

17 14. Patient J.L., a 19-year old developmentally disabled female, resided at
18 Sierra Vista from June 14, 2004 to June 16, 2005. On June 17, 2005, J.L. was discharged from
19 Sierra Vista and transferred to facilities in the Fresno area where she resided throughout the
20 relevant dates herein.

21 15. Respondent was employed as a licensed vocational nurse at Sierra Vista
22 commencing on June 23, 2004.

23 16. While residing at Sierra Vista, J.L. began having "erotomaniac" tendencies
24 towards Respondent, which included writing love letters, telephoning Respondent's home and
25 making claims of a sexual relationship with Respondent.

26 17. In early June, 2005, an investigation was commenced at Sierra Vista into
27 allegations of improper conduct by Respondent involving patient J.L.

28 18. In or about June, 2005, Respondent was counseled by his supervisors at

1 Sierra Vista and by J.L.'s doctor to conduct himself professionally and terminate his relationship
2 with J.L.. Respondent's employment at Sierra Vista was suspended. Respondent resigned his
3 employment at Sierra Vista on June 21, 2005.

4 19. Notwithstanding the admonitions to end contact with J.L., between June
5 16, 2005 and August, 2005, Respondent made numerous telephone calls to the following Fresno
6 area facilities where J.L. was residing: Thompson Adult Residential Care Facility, University
7 Medical Center PACT Unit, and Kaweah Delta Mental Health Facility.

8 20. When Respondent was told he could not speak with J.L., he would call
9 and attempt to impersonate J.L.'s father or other caregivers in trying to speak with J.L.

10 21. Between June 16, 2005 and August, 2005, Respondent made at least four
11 (4) trips to the Fresno area to physically visit the University Medical Center PACT Unit and
12 Kaweah Delta Mental Health Facility where J.L. was residing.

13 22. On or about July 5, 2005, Respondent and J.L. engaged in a telephone
14 conversation wherein J.L. told Respondent that she was pregnant. Respondent stated "No f__ing
15 way, who else have you been sleeping with?" J.L. replied: "Only you John." Thereafter
16 Respondent stated to J.L., "You're on the shot, right?" (referring to her method of birth control)

17 23. In or about July 2005, a "no contact order" was issued to prevent
18 Respondent's communications with J.L. Although Respondent was notified of such order, he
19 did not obey and continued to try to contact J.L.

20 SECOND CAUSE FOR DISCIPLINE

21 (Failure to Adhere to Ethical/Behavior Standards)

22 24. Respondent is subject to disciplinary action under section 2878(d) for
23 unprofessional conduct as defined by California Code of Regulations, title 16, section 2518.6
24 subsection (b)(3) for failing to maintain professional boundaries with patient J.L. whom he met
25 while he was employed as a licensed vocational nurse at Sierra Vista, a facility where J.L. was a
26 patient. The circumstances are described in paragraphs 14-23 set forth above and incorporated
27 herein by this reference.

28 ///

THIRD CAUSE FOR DISCIPLINE

(Convictions of Substantially Related Crimes)

25. Respondent has subjected his license to disciplinary action under sections 2878, subdivisions (a) and (f) and 490 of the Code as defined in the California Code of Regulations, title 16, section 1444, in that Respondent was convicted of crimes substantially related to the qualifications, functions and duties of a licensed registered nurse, as follows:

a. On or about May 8, 2007, Respondent was convicted on a plea of guilty to one count of violating Penal Code section 415, a misdemeanor, (disturbing the peace) in the Superior Court of the State of California, County of Riverside, Case No. RIM489675, entitled *The People of the State of California v. Jonathan Albert Armstrong*.

b. The circumstances surrounding the conviction are that on or about October 1, 2006, the Corona Police Department was called to the residence of Respondent and his girlfriend in Corona, California. Respondent's girlfriend, Y.G., told the police that she had been arguing with Respondent and that Respondent grabbed her causing her to fall to the ground while holding a carrier with the couples' one- month old child inside the carrier.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians issue a decision:

1. Revoking or suspending Vocational Nurse License No. VN 209700, issued to Jonathan Albert Armstrong.

2. Ordering Jonathan Albert Armstrong to pay the Board of Vocational Nursing and Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

///

///

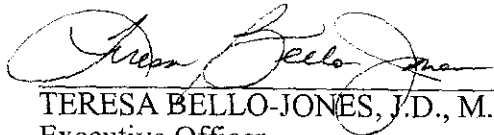
///

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. Taking such other and further action as deemed necessary and proper.

DATED: March 7, 2008



TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California

Complainant

LA2007600454
60239483_2.wpd